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January 30, 2006

Mr. Charles Terreni
Chief Clerk of the Commission
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

Re: BellSouth Telecommunications, Inc. v. NewSouth Communications Corp.
Docket No.: 2004-63-C

Dear Mr. Terreni:

Enclosed for filing are an original and 10 copies of pages 21 and 22 of the Complaint which was filed by BellSouth Telecommunications, Inc. on March 5, 2004. These pages were inadvertently omitted from our original filing.

By copy of this letter, I am serving these missing pages on all parties of record.

Sincerely,



Patrick W. Turner

PWT/nml
Enclosure
cc: All Parties of Record
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agreement with WorldCom that the provisioning of an unbundled loop and transport combination for a requesting carrier should occur upon request and should not be delayed by the ILEC requiring an audit prior to provisioning. What NewSouth claims is a "limitation" to the ILEC's audit rights is in fact found only in a footnote to the FCC's finding that an audit should not be required prior to provisioning an unbundled loop and transport combination for a requesting carrier. *Id.* In fact, the FCC merely acknowledged that the February 28, 2000 Joint Letter stated that "audits will not be routine practice, but will only be undertaken when the incumbent LEC has a concern that a requesting carrier has not met the criteria for providing a significant amount of local exchange service." *Id.* The FCC agreed that "this should be the only time that an incumbent LEC should request an audit." *Id.*

44. Thus, the "limitation" upon which NewSouth relies was merely a statement that audits could not be conducted prior to provisioning unbundled loop and transport combinations, and that both ILECs and CLECs had previously stated that audits would not be routine. *Id.* The FCC's *Supplemental Order Clarification* puts in place a symmetrical process aimed at speeding the provisioning process while providing compliance safeguards; just as the ILEC is required to provision or convert the circuits upon request, the CLEC is required to allow an audit upon request. *Id.* The FCC clearly did not provide requesting carriers the right to obstruct the audit process by challenging the legitimacy of the ILEC's concerns leading to the audit request, nor did the FCC even require the ILEC to share its concern with the CLEC. *Id.* The FCC merely required the ILEC to provide notice to the FCC of audits, so that the FCC could monitor their use. *Id.* The FCC did not in any way require or suggest that any pre-approval of the audit request was necessary - not by the FCC, let alone by the CLEC whose records were subject to audit.

45. Second, even if BellSouth were required to articulate a “concern” before initiating an audit, BellSouth has done so. Hendrix Affidavit ¶¶ 12, 16, Exh. E. BellSouth has previously had issues with NewSouth regarding NewSouth's inability to appropriately jurisdictionalize traffic it sends to BellSouth. In addition, traffic studies show that the traffic NewSouth passes to BellSouth in several states is largely non-local. Yet NewSouth has certified that each of the thousands of circuits for which it has requested conversion meet one of the four safe harbors, and claims that the traffic mix on these circuits is substantially different than the traffic studies would suggest.

46. Finally, the auditor selected by BellSouth (American Consultants Alliance) is independent. Hendrix Affidavit ¶ 5, Exh. E. The firm is not related to BellSouth nor affiliated with BellSouth in any way. *Id.* The firm is not subject to the control or influence of BellSouth, nor is the firm dependent on BellSouth. *Id.*

CAUSES OF ACTION

Count I: NewSouth Has Breached The Interconnection Agreement.

47. BellSouth incorporates Paragraphs 1 - 49 by reference as if fully set forth herein.

48. NewSouth has violated its obligations under the Parties' Interconnection Agreement by refusing to submit to an audit of NewSouth's EELs at BellSouth's request. The Agreement specifically provides BellSouth an unqualified right to audit NewSouth's loop and transport combinations on 30 days' notice and at BellSouth's expense. By refusing to allow BellSouth to conduct such an audit, NewSouth has breached the terms of the Agreement.

49. As a direct and proximate result of NewSouth's actions, BellSouth has been harmed by its inability to verify NewSouth's compliance or non-compliance with the Agreement. Agreement, Att. 2, § 4.5.1.5, Exh. A.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

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CERTIFICATE OF SERVICE

The undersigned, Nyla M. Laney, hereby certifies that she is employed by the Legal Department for BellSouth Telecommunications, Inc. ("BellSouth") and that she has caused BellSouth Telecommunications, Inc.'s Pages 21 and 22 of the Complaint and Request for Summary Disposition Against NewSouth Communications Corp in Docket No. 2004-63-C which was originally filed on March 5, 2004 to be served on the following this January 30, 2006:

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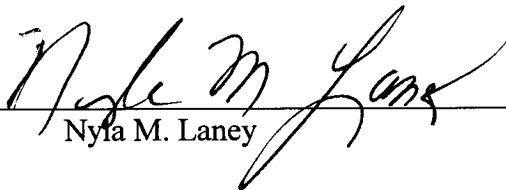
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